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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 20 September 1995 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit to you the reply of the Government of Iraq to the report entitled "Situation of human rights in Iraq" submitted by the Special Rapporteur van der Stoel to the Commission on Human Rights at its fifty-first session, in 1995.

I should be grateful if you would have this letter and its annex, which comprise the reply of the Government of Iraq, circulated as a document of the General Assembly at its fiftieth session under item 114 (c) of the provisional agenda, entitled "Human rights questions: Human rights situations and reports of special rapporteurs".

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

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ANNEX

Reply of the Government of Iraq to the report of the Special Rapporteur on the human rights situation in Iraq

CONTENTS

Subject	Paragraphs	Page
Introduction	1 - 10	3
A. The politico-legal order of repression in Iraq	11 - 27	4
B. Some examples of repressive decrees	28	8
C. Access to food and health care	29 - 39	9
Conclusions	1 - 5	11

Introduction

1. The Government of the Republic of Iraq has studied the report (E/CN.4/1995/56) submitted by the Special Rapporteur to the Commission on Human Rights at its fifty-first session and has found that it resembles his previous reports in employing distortions of the facts, renewing claims and allegations and using the same sophistry which has been repeated year after year. In response to this, we can only give the reference numbers of the documents which contain the relevant official replies of the Iraqi Government.

2. The Government of Iraq, as it has previously stressed, always welcomes any objective, equitable and impartial measures which genuinely aim to protect and strengthen human rights in Iraq. These cannot be dealt with in isolation from the difficult circumstances endured by the Iraqi people since August 1990 as a consequence of the military aggression and the complete economic embargo imposed on Iraq in the name of the United Nations.

3. While the Special Rapporteur expresses regret in his report that the Government of Iraq refuses to meet him and addresses its replies directly to the United Nations and its organizations, it must be mentioned that Mr. van der Stoel has, ever since his appointment as Special Rapporteur on human rights in Iraq, taken a hostile attitude towards Iraq which is far from the non-selectivity, impartiality and objectivity the importance of which was affirmed by General Assembly resolution 47/131 in 1992. When he presented his report to the Security Council he overstepped the authority with which he was invested by the resolution which granted him his mandate, Commission on Human Rights resolution 1991/74. He has held many press conferences with the aim of insulting and pillorying the reputation of the Government of Iraq. He has ignored the official replies and the scientific studies which Iraq has submitted, relying completely and absolutely on sources of information known for their antagonism to the Government of Iraq, although they are sources which are not completely reliable.

4. Mr. van der Stoel also treats the issue of the embargo as a purely political matter, demanding that the Government of Iraq should comply with Security Council resolutions 706 (1991) and 712 (1991), despite being assured of the underlying political goals of both and indifferent to the damaging effects that this embargo has had on Iraqi society, considering them outside his mandate.

5. The complete embargo which has been imposed on the people of Iraq for the last five years, depriving the Iraqi people, including women, children and elderly, of their most basic legitimate right, which is the right to life, is not considered as a violation of human rights, since it was the wish of the forces hostile to Iraq, with which Mr. van der Stoel is cooperating.

6. The Government of Iraq, guided by paragraph 31 of the Vienna Declaration on Human Rights, which states that food and medicine should not be used as a tool for political pressure, looks to the United Nations and its humanitarian organizations to study the grave political, legal and humanitarian consequences of the imposition of the economic embargo, requesting that a mechanism should be

sought to minimize those consequences and their dangerous repercussions on all human rights. It is unthinkable that we should be living in the age of human rights and at the same time using food and medicine as weapons to damage peoples.

7. In his introduction, the Special Rapporteur gives the terms of his mandate in exhaustive detail and reviews the resolutions adopted by the Commission on Human Rights and the General Assembly and other procedural steps. He also repeats the recommendations put forward in previous reports, in particular, that human rights monitors should be sent to Iraq. This is in fact one of the fundamental pivots of his political mission which is biased against the country.

8. Iraq has made its position on this proposal clear, with an absolute refusal, since it would represent flagrant interference in its internal affairs and be blatantly incompatible with the concepts of sovereignty and independence. Furthermore, it would create a precedent to be used to threaten third world peoples and any State desiring to preserve its sovereignty and independence. Iraq has already made its position on this issue clear, in document A/C.3/47/2, paragraphs 18 and 19. Despite the clear official stance of Iraq in this regard, the Special Rapporteur is sending officials from the Centre for Human Rights as monitors on short-term assignments to collect information in neighbouring countries and countries in which the so-called Iraqi opposition has headquarters, as well as to border areas on intelligence operations which are totally divorced from the working methods of United Nations personnel.

9. In paragraph 3 of his report, the Special Rapporteur repeats the same claims and allegations which have appeared in all his reports, namely: "repression, oppression, discrimination, torture, executions, detentions and the draining of the marshes". He depicts Iraq as a country in which there is no one left alive. Faced with such repetition, we will merely refer to the documents in which the Iraqi Government has submitted its official replies: A/49/394, E/CN.4/Sub.2/1994/54, E/CN.4/1995/138, A/48/875, A/C.3/47/2, A/48/378-S/26424 and A/46/647.

10. In paragraphs 4 to 16 of the report, the Special Rapporteur sets out the number of missions he dispatched, the places visited by those missions and their sources of information. As usual, he relies on the same methods and sources, and considers the information as reliable and completely trustworthy, while wilfully ignoring and belittling the replies of the Iraqi Government, thereby confirming both his disposition to conspire against it and his role in the attacks made against the country.

A. The politico-legal order of repression in Iraq

11. This section of the report clearly reflects the way in which Mr. van der Stoel exploits the issue of human rights for political ends that are totally removed from the noble purposes of human rights and makes them a means of interfering in the internal affairs of States. In paragraph 21 of the report, the Special Rapporteur states: "Nor has there been a significant change in any of the structures of the State which the Special Rapporteur believes are the cause of widespread and systematic violations of human rights in Iraq". It

is clear to any impartial observer of the manner in which the Special Rapporteur deals with the human rights situation in Iraq and his activity in this area that Iraq's position on him is correct and why Iraq accuses him of bias and lack of objectivity and of being an instrument for the implementation of the schemes of States and parties hostile to Iraq that aim at overthrowing its national regime, rending asunder its territory and fragmenting its population. The mandate of the Special Rapporteur as set forth in resolution 1991/74 did not empower him to advocate changing the structure of authority in Iraq. The Government of Iraq has already submitted a detailed account of the structure of authority in Iraq in document A/49/394, which may be referred to for further details (paras. 129-141).

12. In this connection, we should like to recall that the establishment of a new and evolved formula for the exercise of democracy in Iraq has been one of the foremost of the Iraqi leadership's concern since the early 1980s. Perhaps the most outstanding element thereof was the election of the President of the Republic and the related popular referendum. However, the leadership deemed it appropriate to postpone that until the end of the Iran-Iraq war. The Revolution Command Council discussed the matter after the end of the war and a new draft constitution was drawn up. This was submitted for broad democratic discussion to the people and the National Assembly. However, the circumstances of the 30-Power aggression in 1991 and the consequent unrest and unjust sanctions halted any move in that direction. The subject was put before the leadership for a second time two years ago by the President of the Republic, but the country's difficult circumstances, particularly the anomalous situation in northern Iraq, which was subjected to quasi-occupation by the Coalition forces, caused the leadership to delay the matter until the sanctions were lifted and the situation in the north was restored to normal. In spite of these difficult circumstances, the leadership has found that the supreme national interest and the need to tackle fundamental issues required the exercise of authentic direct democracy. On the basis of this, the Constitution was amended, and the nominee for the position of President of the Republic was submitted to a national referendum, in accordance with Revolution Command Council decision No. 85 of 1995.

13. In paragraph 25 of the report, the Special Rapporteur alleges the occurrence of "extrajudicial executions ... in particular in relation to military operations in the southern marsh area of Iraq where civilian settlements are said to have been shelled and razed". In this regard, we should like to point out that these allegations are not factual or accurate. The Special Rapporteur's allegations regarding military operations and the shelling of civilian settlements in the marsh area actually refer to an attack carried out by Iranian forces in February 1995, using various heavy weapons, including artillery and boats. Iraqi military units presented resistance to this attack, and this is a matter that lies solely within its domestic authority and constitutes legitimate defence of its territory and the security and safety of its citizens.

14. The nature of this part of Iraq is constantly exploited by the Iranian side to infiltrate its agents for the purpose of carrying out acts of sabotage aimed at undermining security and stability. We have already described in detail the nature of this area and the incidents that occur there in document A/C.3/47/2,

paragraphs 8 to 17, A/48/875, paragraphs 12 to 32 and A/49/394, paragraphs 96 to 104.

15. In paragraph 26 of the report, the Special Rapporteur, as usual, touches on the subject of arbitrary arrest and detention, exaggerating greatly and distorting the facts. He alleges that: "Thousands of families of Iraqi citizens 'of Persian ancestry' who were expelled from Iraq between 1980 and 1990 in the course of which many able-bodied men were arrested and detained ... at Qalat al-Salman prison in southern Iraq." In this regard, we should like to explain that the expulsion of persons of Iranian origin took place following the defensive war that Iraq waged against Iran within the framework of defence of Iraq's security. The details of this matter are given in Iraq's reply of 1991 (A/46/647). Moreover, no one is detained in the Qalat al-Salman prison because this prison has been abolished. We have given an account of this in document A/49/394, paragraphs 40 to 43.

16. With regard to the repetition of the allegations on the disappearance of Iraqi persons, it would be lacking in objectivity to deny the occurrence of such instances, which were always the result of extraordinary circumstances relating to incidents that were impossible, not only for the Government of Iraq but also for any other Government in similar circumstances, to control without suffering of which human beings would have been the first to be affected, namely, the events of the Iran-Iraq war and then the aggression against Iraq during the Gulf war and the subsequent troubles. We have already given account of this matter in earlier documents, including A/49/494, paragraphs 9 to 12.

17. As for the other allegation concerning the disappearance of foreigners and Kuwaitis, Mr. van der Stoel is so far unaware of any of the Kuwaiti cases having been resolved. Here again the Special Rapporteur is exceeding the limits of his mandate as set forth in the resolution appointing him. The subject of Kuwaitis and third-country nationals was taken up by the Security Council and referred to the International Committee of the Red Cross. The subject is linked to international humanitarian law, which deals with such matters clearly and precisely, within the framework of well-known special procedures. We have already dealt with this matter in detail, although it in no way concerns the Special Rapporteur, in document E/CN.4/1994/138.

18. In paragraph 29 of the report, Mr. van der Stoel turns once again to the subject of freedom of movement and directives relating to travel outside Iraq, particularly those relating to professors, engineers and physicians. In this regard, we would refer to a reply of Iraq contained in document A/49/394, paragraphs 26 to 39.

19. With regard to emigration from Iraq, to which Mr. van der Stoel refers, no one can deny that the wars and economic crises, including the economic embargo that is crushing Iraq, cause people to leave the country. This is well known. Accordingly, lifting the economic embargo would definitely lead to a return of normal life and help many people to return to their country.

20. As usual, the Special Rapporteur cites data without bothering to check it and ascertain its accuracy. One example of that is his allegation that

"information has been received that persons not resident in Baghdad prior to April 1991 may be forced to leave Baghdad as a measure to relieve the pressure of economic demands on the city". This allegation is absurd. As everyone is aware, all the towns and villages of Iraq are suffering from the pressure of economic demands owing to the embargo. Accordingly, this allegation can only be described as illogical.

21. As in all of his reports, the Special Rapporteur reverts to what he calls ethnic and religious communities and the rights of minorities and attacks on the Marsh Arab community and the predominantly Kurdish region in the north. In this regard, we should point out that all Iraq's previous replies contain an extensive account of these matters, and Iraq has submitted a document concerning the manner of treatment of the subject of minorities in Iraq, namely, document E/CN.4/Sub.2/1994/54.

22. We should like to put to the Special Rapporteur a question that presents itself concerning the sources of his information, namely, why did he not touch on the human rights violations to which our Kurdish people is subjected at the hands of Kurdish elements and the militias that control the north, even though they have been publicized in a sizeable document issued by Amnesty International, which is, as we know, one of the main information sources relied on by Mr. van der Stoel. It may be useful to cite a short excerpt from this report, which was issued under the title "Human rights abuses in Iraqi Kurdistan since 1991". The report, which is over 140 pages long, deals in detail with the numerous and widespread violations of human rights committed by the "Kurdish administration" as represented in the "Council of Ministers" and Kurdish political parties in the area. They include detention, torture, ill-treatment, and first-degree murders. Amnesty International in its report placed the responsibility for these violations and for similar violations perpetrated by the Islamic movement on the leaders of Kurdish political parties, especially the two main parties, the Kurdistan Democratic Party and the Kurdish Patriotic Union. We expect that the Special Rapporteur's excuse would be that these violations do not fall within his mandate because they were not committed by the "Government of Iraq", although those who suffer from them and have fallen victim to them are thousands of the Iraqi Kurdish people.

23. It may be useful to suggest that Mr. van der Stoel, instead of repeating the same allegations in each report, should address himself to the real human suffering resulting from the ferocious war and bloody fighting that has taken place in Iraqi Kurdistan, which has turned into a war of the streets which has taken a toll of thousands of innocent victims from the Kurdish people. Add to this the human rights violations and suffering arising from the Turkish invasion of northern Iraq, which has caused thousands of Kurds to flee from their villages, leave their homes and take refuge in safer areas far from the site of the fighting. The Turkish forces have used heavy weaponry and aircraft, which has destroyed a number of villages and caused the death of many innocent citizens. This is in addition to the arrests and humiliating treatment to which the local population is subjected by the invading forces. These are the real human sufferings to which the innocent Iraqi Kurdish people is subjected. However, Mr. van der Stoel does not view it like that as long as these acts are not committed by the Government of Iraq.

24. The Turkish invasion of northern Iraq was accompanied by flagrant violations committed by the invading forces through intensive utilization of weapons that were not commensurate with the number of those who were subjected to the military campaign, in which military aircraft and heavy military equipment were used, causing great damage to property and killing Iraqi Kurdish citizens. Large numbers of them were deprived of practising their daily work and enjoying their natural life, owing to the restrictions imposed by the invading forces. The slaughter of women and children in Zakho and Dohuk and near the town of Sarsank and the detention of many Kurdish citizens whose fate remains unknown all confirm the volume of the immense dangers to which civilians are exposed.

25. In addition, the Turkish invasion of northern Iraq has led to the exodus of waves of refugees. Many of the inhabitants of areas in which military operations were conducted, particularly the Zakho area, have left their villages and property and fled, under the protection of United Nations guards to safer areas.

26. In the course of the military operations, the invading Turkish forces raided homes in order to separate the men from the women and to rob and loot. This is in addition to the humiliating practices carried out by Turkish soldiers against citizens through the arbitrary imposition of a state of emergency in their areas.

27. As a result of these operations, it has been difficult to bring humanitarian relief to the area controlled by the invading Turkish forces, which prevented United Nations guards from reaching Kurdish villages with the area of fighting.

B. Some examples of repressive decrees

28. In this subsection, the Special Rapporteur discusses what he refers to as "repressive decrees", thus reiterating the content of his previous report. There is no harm in restating what we have already said, namely that the punitive measures contained in the Revolution Command Council decrees in respect of thieves and the perpetrators of crimes against society cannot be viewed, as is the wont of Mr. van der Stoel, in isolation from the overall situation in Iraq. That situation is epitomized by the unjust comprehensive embargo that has been imposed on Iraq for almost five years, leaving an inhumane impact on various aspects of life and producing social conditions alien to our society, which adheres to high moral values and is distinct in its security and stability. The most prominent of those conditions are theft and burglary, which occur mostly in conjunction with acts of killing. As a result, persons, property and lives are greatly endangered, in turn placing Iraqi society in grave peril. As we have previously mentioned, these punishments are applied in very few instances and only in the case of utmost necessity, which indicates the temporary nature of the measure. The truth of our assertion that these punishments constitute a temporary measure is affirmed by the recent promulgation, on 22 July 1995, of Revolution Command Council Decree No. 61, which prescribes the pardon of all inmates and convicts, as well as the final cessation of the measures taken in respect of any person having perpetrated the

offence of evasion of, or absence or desertion from, military service. Under the provisions of that decree, convicted persons are also exempt from the punishment of severance of the ear auricle and amputation of the hand. For further details, reference may be made to Iraq's reply contained in document E/CN.4/1995/138. It is further worth pointing out that, under the same decree, the death penalty is commuted to life imprisonment. Revolution Command Council Decree No. 64, which prescribes the full exemption of all political prisoners from the provisions issued in their regard (see annexes I and II), has also been promulgated.

C. Access to food and health care

29. In section I, subsection C, relating to "access to food and health care", the Special Rapporteur, on the basis of "the reports and assessments of United Nations specialized agencies in the context of the United Nations Inter-Agency Humanitarian Programme in Iraq", states that he has had "the sad duty of recording a constantly deteriorating situation for most of the population, especially the most vulnerable segments comprised of children, pregnant and lactating mothers and the elderly". Although true, Mr. van der Stoel's words are intentionally misleading in that he claims to feel sorry for the children of Iraq, yet at the same time fails to request the lifting of the embargo against them; on the contrary, he holds the Government of Iraq responsible for such human suffering on account of its non-implementation of Security Council resolutions 706 (1991) and 712 (1991), despite being satisfied as to their political objectives. In common with those States working in their own interests, he none the less persists in exploiting that human suffering for perverse political purposes in contempt of all international human rights instruments which affirm human dignity and the right to life. In any event, this subject has already been expounded in detail on more than one occasion, most recently in document E/CN.4/1995/138, in which we explained that those two resolutions were aimed at prejudicing the sovereignty of Iraq and dividing its people on an ethnic and sectarian basis, rather than at ensuring the humanitarian needs of the Iraqi people. Despite this, the Government of Iraq has made efforts to arrive at an acceptable formula with the Secretariat in New York and Vienna. Those efforts, however, have failed to produce a valid solution due to the pressures exerted by the United States.

30. We also anticipate that Mr. van der Stoel will create a further outcry over the recently adopted Security Council resolution 986 (1995), which is actually a draft that was submitted to the Council by the United States and Britain as being the only available solution for addressing the tragic situation of the Iraqi people spawned by the continued economic embargo against it. At this point, we should like to highlight certain facts with a view to explaining Iraq's position on the aforesaid resolution to Mr. van der Stoel and to any follower of the subject's background and the human rights situation in Iraq.

31. The new resolution relies on the same machinery contained in Security Council resolutions 706 (1991) and 712 (1991) in the shape of imposed control mechanisms for the distribution of foodstuffs and medicines and specified routes for the export of petroleum, thereby divesting Iraq of its will and its autonomy of decision and choice concerning the export route for petroleum and petroleum

products. It also entails an odious intervention in the life of Iraqi citizens on the pretext of monitoring the adequacy and fairness of the distribution of the enormous quantities of foodstuffs to be purchased pursuant to the resolution and further bolsters the state of insurrection in the north of Iraq, thus violating Iraq's sovereignty and territorial integrity. This resolution divests Iraq of its natural right as an independent sovereign State to dispose of its assets in the interests of the Iraqi people with a view to providing essential needs in accordance with international law and the international rules governing inter-State trade.

32. The aim of the draft resolution was to rule out discussion by the Security Council concerning the fulfilment of its obligations towards Iraq under Security Council resolution 687 (1991). The timing of the new resolution affirms as much, having been introduced to the Security Council with a view to impeding the future of the Iraqi people and not to lifting the embargo. Iraq therefore rejected the resolution, which it deemed worse than Security Council resolutions 706 (1991) and 712 (1991). The resolution was adopted behind a humanitarian screen, with the adopting States offering as a pretext the critical humanitarian situation and human suffering in Iraq. We anticipate that Mr. van der Stoel will do likewise, as he can be relied upon in that respect on any occasion. The resolution encompasses dubious political objectives such as deceiving world public opinion in order to eliminate the growing pressure to end the suffering of the Iraqi people and lift the unjust embargo imposed on it in a bid to divert efforts to that end within the Security Council and thus ensuring the continued imposition of the embargo for as long as possible.

33. The Special Rapporteur repeats the same allegations concerning what he calls "discriminatory policies" and the "internal blockade on the north". In the face of such repetition, suffice it for us to refer to our reply contained in the aforesaid document and to document A/49/394.

34. Section I, subsection D, which the Special Rapporteur devotes to the situation of Iraqi refugees, mentions the causes of flight as being "increased oppression from the Iraqi Government, ... deteriorating living standards; ... draining of the marshes ...". He focuses on what he calls "draining of the marshes" and states that the inhabitants of the area have lost their habitat, as well as their livelihood of fishing and raising livestock, and that draining has made access to the area easier for Government troops pursuing suspected criminals.

35. In so far as the matter is connected with such claims, we should like to state that war and crisis situations are the main causes of migration, something which no two persons would dispute; the economic embargo and its adverse repercussions on individuals and society have caused many Iraqis to migrate due to difficult economic circumstances in the hope of improving their living conditions. Life will unquestionably return to normal with the lifting of the embargo.

36. Similarly, the projects implemented by Iraq, which the Special Rapporteur still mentions in all his reports and about which he makes accusations at large, are in fact British, United States, German and Brazilian projects suspended after the events of August 1990 and since completed. We should like to point

out that most of the land reclaimed with the completion of some of these development projects has been distributed among the inhabitants of the area and that initial agricultural production has begun. The benefits to be yielded by this project are cited in the reports of United States and British experts and have already been explained in documents A/48/875 and A/CN.4/1995/138, as well as in a special document (A/C.3/49/23) distributed on the subject.

37. There is no harm in summarizing, for the fourth time, some of these benefits, which may be sufficient to satisfy the Special Rapporteur:

1. The drainage of salt water from agricultural land and the consequent increase in areas suitable for agricultural production;

2. Maintenance of the excellent quality of water from the Tigris and Euphrates rivers and verification of its suitability for local industrial and agricultural use;

3. Settlement of the sand dunes in the regions through which the river passes;

4. Use of the river for navigation purposes.

38. In the context of this subsection on refugees, we should like to draw Mr. van der Stoel's attention to the exoduses which occurred in the north of Iraq as a result of the Turkish incursion to which the region was subjected. Thousands of inhabitants from the Kurdish villages located on the borders with Turkey were forced by the shelling to which their areas were exposed to leave their villages and homes and seek refuge in more secure places. This is in addition to the ongoing exodus attributable to the bloody fighting between the elements in control of Iraqi Kurdistan.

Conclusions

A perusal of Mr. van der Stoel's report leads us to the following conclusions, which do not differ in substance from the conclusions which we reached from his earlier reports. One notes the following:

1. Repeated allegations of human rights violations in Iraq based on information provided, on the one hand, by forces and organs known for their hostility to Iraq or, on the other hand, through missions sent to certain countries, in particular the United Kingdom, Iran and Kuwait, which meet with what is referred to as the "Iraqi opposition". Such sources, needless to say, are neither impartial nor objective; consequently, the information obtained is highly questionable and lacks the requisite criterion of conclusiveness.

2. The report, like its predecessor, deals with the situation in Iraq and the difficult conditions prevailing as a result of the continued application of the economic sanctions in a manner thoroughly remote from reality. It speaks of human rights violations, yet glosses over the flagrant violation of all human rights in Iraq caused by the continued application of the sanctions. Indeed, the continued economic sanctions, with the deaths and suffering they have caused

and continue to cause in all areas of life among the weaker segments of society, in particular children, women and the elderly, amount in fact to nothing less than genocide, which is prohibited by international law and whose perpetrators are punishable by the international community. When Mr. van der Stoel is forced to touch on the tragedy and destruction caused by the sanctions in all areas of life, he places the responsibility for them on the Government of Iraq for rejecting resolutions 706 (1991) and 712 (1991). Yet he knows better than anyone that those two resolutions are political and have nothing to do with human rights, but simply serve as a pretext, as mentioned in our previous replies to his reports.

3. Mr. van der Stoel's political objective is clearly apparent day after day in his reports. He goes beyond mere allegations of human rights violations in Iraq and is conducting an offensive against the structure of the authority and the institutions of the State, thus leaving no room for doubt that he is calling for interference in the internal affairs of Iraq and in matters belonging to the internal authority of the State, an endeavour that fits into the framework of a plot against the political system in Iraq with a view to changing it.

4. All the allegations made by Mr. van der Stoel in his report have been concretely answered in the past by the Government of Iraq. We do not deny the existence of a number of emergency laws imposed by the difficult conditions prevailing in Iraq; however, we must not lose sight of the fact that those laws are temporary, being intended first and foremost to ensure the safety of the citizens and society. We cannot assert, moreover, that there do not exist some cases that constitute violations of human rights, arising from our long defensive war with Iran and from the unrest and sabotage that followed the 30-Power aggression against Iraq, such as cases of disappearance, which are unavoidable occurrences imposed by the conditions of war and unrest. Nor does the Iraqi Government deny that it has adopted maximum penalties, even including execution, against anyone who wilfully engages in sabotage of the economy or fraudulent dealings with the food and drugs of the people under the conditions of continued application of the economic sanctions, for the fundamental task of the Iraqi State under the current circumstances is to provide food and medicine for the citizens, no other task having greater priority.

We do not deny the existence of such cases; however, Mr. van der Stoel continually points to those emergency laws and cases and dwells on them, adding to them a large portion of exaggeration, in isolation from any mention of the conditions that distinguished those cases or led to the enactment of such laws.

Mr. van der Stoel looks at human rights situations from a viewpoint that serves his political aims, not from an objective point of view, which he should maintain in dealing with an issue as important and vital as human rights.

5. All of the above leads us to a fact to which we have referred before, namely that Mr. van der Stoel has adopted a hostile stance with regard to Iraq. That stance is not in keeping with a technical approach, which implies the use of reliable sources or aims at accuracy and the desire to report information and make sure of its correctness, but is rather of a political order. Indeed, Mr. van der Stoel has become a party hostile to Iraq, participating in the designs intended to tear Iraq apart and fragmentize its people, in a manner

totally contradictory to the nature of work in the field of human rights referred to by the General Assembly in its resolution 47/131 on the "strengthening of United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity". In that resolution the General Assembly affirmed "that the promotion, protection and full realization of all human rights and fundamental freedoms as legitimate concerns of the world community should be guided by the principles of non-selectivity, impartiality and objectivity, and should not be used for political ends". In that connection it further requested "all human rights bodies within the United Nations system, as well as the special rapporteurs and representatives, independent experts and working groups, to take duly into account the content of the present resolution in carrying out their mandates". Furthermore, Mr. van der Stoel's approach, to which we have referred, is incompatible with the standards of conduct for international civil servants referred to in the 1954 Report on Standards of Conduct in the International Civil Service.

APPENDIX I

Republic of Iraq
Revolution Command Council
Decree No. 61
Date of Decree: 23 July A.D. 1995

Decree

In furtherance of the national, educational and humanitarian guarantees included in the speech of His Excellency President and Leader Saddam Hussein on the twenty-seventh anniversary of the beginning of the great revolution of 17 to 30 July, to the effect that the opportunity would be given to anyone who has been corrupted by one factor or another or by the temptation of the devil, to take a step forward, correct his mistake and return from the chasms of deviation to the firm and excellent national model.

On the basis of the provisions of article 42, paragraph (a), of the Constitution, the Revolution Command Council has decided as follows:

First: Iraqi inmates will be excused the remainder of their sentences as below:

1. Anyone having served three years of a sentence of more than 10 years;

2. Anyone having served two years of a sentence which did not exceed 10 years;

3. Anyone given a prison term who has served one year of his sentence.

Second:

1. Any Iraqi prison inmate will be excused the remainder of his term provided that his relatives guarantee to ensure his good behaviour, and that that is endorsed by a member of the Arab Baath Socialist Party.

2. The provisions laid out in the first clause of this Decree shall apply to those convicted of first degree murder.

Third: Those sentenced to amputation of the hand shall be excused that punishment if a period exceeding two years has been spent in detention.

Fourth: Those sentenced before this Decree entered into force shall be included in the amnesty once they have completed the periods specified in the first, second and third clauses of this Decree.

Fifth:

1. The amnesty provisions specified in the first, second and fourth clauses of this Decree shall not apply to those convicted of first degree murder unless a settlement has been reached with the injured party.

2. "The injured party" means the legal successor of the victim.

Sixth:

Any prisoner able to memorize four suras of the Holy Qur'an and understand the ideology of the revolution shall be exempted from the periods of time specified in the first and third clauses of this Decree.

Seventh: Sentences of death passed before this Decree entered into force shall be commuted to life imprisonment once they have been finalized.

Eighth:

1. All proceedings taken against anyone who committed the crime of deserting from the army or absented himself from or avoided military service shall be completely halted if that person repented and gave himself up or was arrested before this Decree entered into force.

2. The provisions of paragraph 1 of this clause shall be applied to all fugitives from and those who failed to perform or avoided performing military service who gave themselves up within two weeks of the entry into force of this Decree if inside Iraq, and within a month if outside Iraq.

3. All those sentenced to have the auricles of their ears amputated shall be pardoned this punishment.

Ninth: Anyone pardoned under the terms of this Decree who subsequently commits a similar crime or deliberate misdemeanour shall receive the punishment from which he had been pardoned.

Tenth: Those covered by the amnesty contained in this Decree shall be prisoners convicted of the following crimes:

1. Drug-dealing;

2. Spying;

3. Murder connected with apostasy;

4. Embezzlement and theft of State funds;

5. Attacks on officials or those carrying out public duties in the course of their duties or because of them;

6. Bribery;

7. Kidnapping;

8. Homosexuality;

9. Illicit sexual relations.

Eleventh: The President of the Presidential Council shall issue the instructions necessary to facilitate the implementation of the provisions of this Decree.

Twelfth: This Decree shall come into force from the date of its promulgation.

Saddam HUSSEIN
Chairman of the
Revolution Command Council

APPENDIX II

Decree of the Revolution Command Council granting amnesty to Iraqis inside or outside Iraq who have been convicted of political crimes

IN THE NAME OF GOD,
THE COMPASSIONATE, THE MERCIFUL

Republic of Iraq
Revolution Command Council
Decree No. 64

Mission Date: 30 July A.D. 1995

Drawing inspiration from the enlightened, humanitarian and patriotic statements made by His Excellency President Saddam Hussein in his historic speech of 17 July this year; believing that every zealous citizen is a fighter in the July Revolution when he is motivated by patriotism to carry out his duty to oppose backwardness and its causes and to take part in building a great Iraq,

Convinced that even if a citizen has turned away from his patriotic commitment, having been too weak to bear the burden or to resist unlawful and illusory temptation, he is capable of resuming his responsibility for the nation's honour and the national struggle, with will and reliance on God,

Intent on preserving the role of the revolution to help those who need help in appreciating the true meaning of the revolution without resorting to invention, and to rehabilitate those who have stumbled from the true path, so they may be a vital part of their people,

Confirming that this opportunity is now available to all those who have erred and that those who are sincere and renounce their past will be welcomed back, so they may continue on their original revolutionary path, in the spirit of salvation, noble patriotism, strength and virtue which our nation requires from its true sons,

Pursuant to the provisions of article 2, paragraph (a), of the Constitution, the Revolution Command Council has decreed as follows:

I. A general amnesty is granted to Iraqis inside or outside Iraq who have been found guilty of political crimes.

II. A complete halt shall be put to legal procedures taken against Iraqis inside or outside Iraq who have been found guilty of political crimes.

III. No legal steps shall be taken against Iraqis inside or outside Iraq who have committed political offences or crimes, before the implementation of this Decree. No action may be brought against them on account of these offences or crimes.

IV. Those to whom articles I or II of this Decree apply shall be released from custody, providing that they have not been convicted of or detained on account of other matters.

V. Not included in articles I, II and III of this Decree are persons who have committed the following crimes even though these are related to the crimes referred to in those articles:

1. Espionage.

2. Premeditated murder.

3. Embezzlement of State funds.

4. Rape.

VI. Those to whom this amnesty applies shall have restored any property which has been seized from them.

VII. Those to whom articles I, II and III of this Decree apply must return to Iraq within two months of its entry into force, if they are outside the country, or must report to the appropriate authorities within one month of the date of its entry into force, if they are inside Iraq.

VIII. This Decree shall enter into force from the date of its promulgation.

Saddam HUSSEIN
Chairman of the Revolution
Command Council